

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Barbering hereby gives Notice of Intended Action to rescind Chapter 20, "Administrative and Regulatory Authority for the Board of Barbering," to amend Chapter 21, "Licensure of Barbers," Chapter 22, "Sanitation for Barbershops and Barber Schools," Chapter 23, "Barber Schools," Chapter 24, "Continuing Education for Barbers," and Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools," and to rescind Chapter 26, "Fees," Iowa Administrative Code.

The proposed amendments update and clarify outdated language and rescind duplicative language found in 645—Chapters 4 and 5. The proposed amendments to rule 645—21.16(17A,147,272C) and subrule 24.2(1) require a barber instructor to obtain four hours of continuing education in teaching methodology in addition to the eight hours of continuing education required for renewal or reactivation of the barber license. The proposed amendments also update rules to be consistent with legislative changes promulgated by 2008 Iowa Acts, House File 2212.

Any interested person may make written comments on the proposed amendments no later than December 23, 2008, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on Tuesday, December 23, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C and 2008 Iowa Acts, House File 2212.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 20**.

ITEM 2. Amend **645—Chapter 21**, title, as follows:

LICENSURE OF BARBERS

ITEM 3. Rescind rule 645—21.2(158) and adopt the following new rule in lieu thereof:

645—21.2(158) Requirements for licensure.

21.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application form. Application forms may be obtained from the board Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. The application and licensure fee shall be sent to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall present proof of completion of the tenth grade or equivalent education. In the event the applicant is a refugee or immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement.

c. The applicant shall provide an official copy of the transcript or diploma sent directly from the school to the board showing proof of completion of training at a barber school licensed by the board. If the applicant graduated from a school that is not licensed by the board, the applicant shall direct the school

to provide an official transcript showing completion of a course of study that meets the requirements of rule 645—23.8(158).

d. The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office.

e. An application for barber examination must be postmarked at least 14 days prior to the examination.

f. The candidate shall take and pass the written and practical examinations required by the board.

g. Licensees who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

21.2(2) Foreign-trained barbers shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or World Education Services (WES) at (212)966-6311, electronically at www.wes.org or by writing to WES, P.O. Box 745, Old Chelsea Station, New York, NY 10113-0745. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a barber school in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

21.2(3) Requirements for an instructor's license.

a. An applicant for an instructor's license shall:

(1) Complete all requirements stated in subrule 21.2(1), paragraph "a";

(2) Present proof of graduation from an accredited high school or the equivalent thereof;

(3) Be licensed in the state of Iowa as a barber for not less than two years; and

(4) Pass the instructor's examinations administered by the board or its designee.

b. Instructors who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

c. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

d. An applicant who meets the requirements for an instructor's license except for the examinations may apply for a temporary permit to be an instructor. The temporary permit shall be valid for a maximum of six months from the issue date of the permit and shall not be renewable.

ITEM 4. Amend subrule 21.3(2) as follows:

21.3(2) ~~Persons~~ Applicants who do not appear on the appointed date assigned to them to take fail to appear for the examination must notify the board of barbering request in writing or by telephone to schedule a new appointment date reschedule the examination. Examination fees ~~cannot be refunded~~ are not refundable, but the applicant will not be required to pay the next examination fee if the applicant can show proof that the applicant's inability to take the examination was not the applicant's fault the rescheduled examination fee may be waived upon a showing of good cause for missing the previously scheduled examination. Proof of ~~inability to take the examination~~ good cause shall be submitted to the board office with ~~a written~~ the request to reschedule the examination. An applicant shall be required to pay the reexamination fee if the applicant does not appear for a subsequent examination.

ITEM 5. Rescind and reserve rule ~~645—21.4(158)~~.

ITEM 6. Rescind rule ~~645—21.5(158)~~ and adopt the following **new** rule in lieu thereof:

~~645—21.5(158)~~ Licensure by endorsement. The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has held an active license under the laws of another jurisdiction for at least 12 months during the past 24 months and who:

21.5(1) Submits to the board a completed application and pays the licensure fee specified in ~~645—subrule 5.2(1)~~.

21.5(2) Provides verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

21.5(3) Takes and passes the written and practical examination administered by the board.

ITEM 7. Amend subrule 21.9(3) as follows:

21.9(3) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in ~~645—subrule 26.1(11)~~ 645—subrule 5.2(10). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 8. Adopt the following **new** rule ~~645—21.11(158)~~:

~~645—21.11(158)~~ Requirements for a barbershop license.

21.11(1) A barbershop shall not operate unless the owner of the barbershop possesses a current barbershop license issued by the board. The following criteria shall apply to licensure:

a. The owner shall complete a board-approved application form. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>), or directly from the board office. The application and fee shall be submitted to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The barbershop shall meet the requirements for sanitary conditions established in ~~645—Chapter 22~~.

c. A barbershop license shall be issued for a specific location. A change in location or site of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by ~~645—subrule 5.2(8)~~. A change of address without change of actual location shall not be construed as a new site.

d. A barbershop license is not transferable. A change in ownership of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by ~~645—subrule 5.2(8)~~.

e. A change in the name of a barbershop shall be reported to the board within 30 days of the name change.

f. Upon closure of a barbershop, the barbershop license shall be submitted to the board office within 30 days.

g. A barbershop that was issued a license within six months prior to renewal shall not be required to renew the license until the renewal month two years later.

21.11(2) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

ITEM 9. Rescind subrule 21.12(8) and adopt the following **new** subrule in lieu thereof:

21.12(8) Inactive barbershop license. If the renewal application and fee are not postmarked within 30 days after the license expiration date, the barbershop license is inactive. To reactivate a barbershop license, the reactivation application and fee shall be submitted to the board office.

ITEM 10. Rescind and reserve rules **645—21.13(147)**, **645—21.14(147)** and **645—21.15(272C)**.

ITEM 11. Amend rule 645—21.16(17A,147,272C) as follows:

645—21.16(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

21.16(1) No change.

21.16(2) Pay the reactivation fee that is due as specified in ~~645—subrule 26.1(12)~~ 645—subrule 5.2(11).

21.16(3) Provide verification of current competence to practice as a barber by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) No change.

(2) Verification of completion of eight hours of continuing education that meet the continuing education standards defined in rule 645—24.3(158,272C) within two years of application for reactivation. ~~An individual whose license was on inactive status prior to September 21, 2005, may reactivate the license between September 21, 2005, and June 30, 2007, by furnishing evidence of current full time practice in another state of the United States or District of Columbia and completion of substantially equivalent continuing education.~~

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) No change.

(2) Verification of completion of eight hours of continuing education that meet the continuing education standards defined in rule 645—24.3(158,272C) within two years of application for reactivation; and

(3) Verification of passing the state examination administered by the board within one year immediately prior to reactivation if the applicant does not have a current license and has not been in active practice in the United States during the past five years. ~~An individual whose Iowa license was on inactive status for more than five years prior to September 21, 2005, may reactivate the license between September 21, 2005, and June 30, 2007, without passing the state examination administered by the board.~~

21.16(4) Licensees who are barber instructors shall obtain an additional four hours of continuing education in teaching methodology.

ITEM 12. Renumber rule **645—21.17(17A,147,272C)** as **645—21.18(17A,147,272C)**.

ITEM 13. Adopt the following **new** rule 645—21.17(17A,147,272C):

645—21.17(17A,147,272C) Reactivation of a barbershop license. To apply for reactivation of an inactive license, a licensee shall:

21.17(1) Submit a reactivation application on a form provided by the board.

21.17(2) Pay the reactivation fee that is due as specified in 645—subrule 5.2(12).

21.17(3) Meet the requirements for sanitary conditions established in 645—Chapter 22.

ITEM 14. Amend **645—Chapter 22**, title, as follows:

SANITATION FOR BARBERSHOPS AND BARBER SCHOOLS

ITEM 15. Amend rule 645—22.3(147) as follows:

645—22.3(147) Display of licenses.

22.3(1) No change.

22.3(2) The original license certificate, duplicate certificate, reissued certificate or temporary permit ~~shall be visibly displayed~~ for each licensee and temporary permit holder employed by the barbershop or barber school shall be posted and visible to the public.

22.3(3) Each licensee shall:

- a. Display the current wallet card with the certificate, or
- b. Have the current wallet card in the licensee's possession.

~~EXCEPTION: A licensee who was issued an initial license between January 1, 2002, and July 15, 2004, will not be required to meet this requirement until the first renewal of the license.~~

ITEM 16. Amend subrules 22.4(1) and 22.4(2) as follows:

22.4(1) Each barbershop owner shall ~~hire~~ ensure that individuals who provide barbering or cosmetology services hold a current and valid Iowa license or temporary work permit to practice barbering or cosmetology ~~to provide barbering or cosmetology services.~~

22.4(2) Each ~~supervisor~~ owner shall ~~be responsible for ensuring~~ ensure that all employees observe all applicable rules.

ITEM 17. Rescind rule 645—22.8(158) and adopt the following **new** rule in lieu thereof:

645—22.8(158) Smoking. Barbershops licensed by the board shall comply with the smokefree air Act, 2008 Iowa Acts, House File 2212.

ITEM 18. Amend rule **645—22.11(158)**, paragraph “2,” as follows.

2. ~~Closed receptacles~~ Receptacles to hold all soiled towels and capes;

ITEM 19. Amend rule 645—23.4(272C) as follows:

645—23.4(272C) Inactive school license.

23.4(1) If the renewal fee is received more than 30 days after the license expiration date, the school license is inactive. To ~~reinstate~~ reactivate the school license, the ~~reinstatement fee, the renewal fee for each year the license is inactive, and the late~~ reactivation application and fee shall be submitted to the board.

~~**23.4(2)** After the reinstatement of an inactive license, the barber school shall renew at the next scheduled renewal date.~~

~~**23.4(3)**~~ **23.4(2)** A barber school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is ~~reinstated~~ reactivated.

ITEM 20. Rescind and reserve rule **645—23.5(147)**.

ITEM 21. Amend rule 645—23.6(158) as follows:

645—23.6(158) Physical requirements for barber schools. Each licensed barber school shall ~~provide:~~

1. ~~A~~ Provide a clinic area where paying customers will receive services. The clinic area shall be confined to the premises occupied by the school.
2. ~~A school that is~~ Be large enough and be equipped to provide room(s) separate from the clinic area for lectures and demonstration purposes.
3. ~~A~~ Provide a library for students that contains textbooks, videos, current trade publications and business management materials. The contents of the library shall be current within the previous ten years and shall cover the topics necessary for the student to master the skill of barbering.
4. ~~An~~ Have an administrative office.
5. ~~If a school has a laundry room, it must be separated~~ Allow separation of laundry room from the clinic area by a full wall or partition if the school has a laundry room.

6. ~~Closed~~ Provide closed cabinets or a separate room for storing ~~extra~~ supplies.
7. Meet the sanitation requirements in 645—Chapter 22.

ITEM 22. Amend rule 645—23.7(158) as follows:

645—23.7(158) Minimum equipment requirements. Each barber school shall have, at a minimum, the following equipment:

1. and 2. No change.
3. ~~Each~~ Audiovisual equipment available for each classroom ~~shall include a large chalkboard or equivalent.~~
4. to 11. No change.

ITEM 23. Amend subrule 24.2(1) as follows:

24.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as a barber in this state shall be required to complete a minimum of eight hours of continuing education approved by the board. A licensee who is a barber instructor shall obtain four hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the barber license.

ITEM 24. Rescind and reserve rules **645—24.4(158,272C)**, **645—24.5(158,272C)** and **645—24.6(158,272C)**.

ITEM 25. Amend subrule 25.2(11) as follows:

25.2(11) Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ITEM 26. Amend subrule 25.2(22) as follows:

25.2(22) Submission of a false report of continuing education ~~or failure to submit the biennial report of continuing education.~~

ITEM 27. Rescind and reserve rule **645—25.5(158)**.

ITEM 28. Rescind and reserve **645—Chapter 26**.